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September 19, 2005

Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Re: U.S. Patent Application No. 09/558,060
Inventor: John Richard BERGAN
Filed: April 26, 2000
Title: Data Checker Apparatus and Method
Examiner: B. To
Group Art Unit: 2162

Dear Sir:

In connection with the above-identified application, enclosed are the following:

1. Amendment After Appeal to Correct Typographical Errors
2. Brief on Appeal (in triplicate)

The fee for the Brief on Appeal was paid on April 19, 2004. NO FEE IS DUE.

Respectfully submitted,

Donald W. Marks



156-102
DWM

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of)	
)	
John Richard BERGAN)	
)	
Serial No. 09/558,060)	Examiner: B. To
)	
Filed: April 26, 2000)	Group Art Unit: 2162
)	
For: DATA CHECKER APPARATUS)	September 19, 2005
AND METHOD)	

AMENDMENT AFTER APPEAL TO CORRECT TYPOGRAPHICAL ERROR

Assistant Commissioner of Patents
Washington, D.C. 20231

Dear Sir:

Entry of the following amendments to claims 1 and 3 is requested to correct
typographical errors.

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Amendments to the claims:

1 (currently amended): A data checking system for determining if necessary files and data have been entered into a computerized ~~management~~ educational management system having a data base containing a plurality of files and data, the system comprising:

an item list defining possible data including lesson plan information in the computerized management system;

means for displaying the list and for enabling the user to select one or more items in the item list as necessary for the management system;

means enabling a user to request a search of the data base for the selected items; and

means responsive to a request to search the data base for the selected items for conducting an inspection of the management system data base to determine the presence or absence of the selected items including lesson plans and for reporting the results of the conducted inspection.

2 (canceled)

3 (currently amended): A data checking system for determining if necessary files and data have been entered into a computerized educational management system having a data base containing a plurality of files and data, the system comprising:

an item list defining possible data in the computerized management system;

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means for displaying the list and for enabling the user to select one or more items in the item list as necessary for the management system;

means enabling a user to request a search of the data base for the selected items; and

means responsive to a request to search the data base for the selected items for conducting an inspection of the management system data base to determine the presence or absence of the selected items and for reporting the results of the conducted inspection;

wherein the item list includes child developmental areas and the inspection conducting means determines the presence or absence of child accomplishment in the selected developmental areas.

4 (previously presented): A method of determining if necessary files and data have been entered into a computerized educational management system having a data base containing a plurality of files and data, the method comprising:

displaying an item list defining possible data including lesson plan information in the computerized management system;

selecting one or more items in the displayed item list as necessary for the management system;

requesting a search of the data base for the selected items;

searching the data base in response to a search request to determine the presence or absence of the selected items including lesson plans; and

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reporting the results of the searching of the data base.

5 (original): A method as defined in claim 4 wherein the item list includes child developmental areas and the checking determines the presence or absence of child accomplishment in the selected developmental areas.

6 (canceled)

7 (previously presented): A data checking system as defined in claim 1 wherein one of the selected items of the possible data includes a date and further comprising:
means for setting a selected period of one or more days,
said inspection conducting means determining the presence of the one selected item having a date within the selected period.

8 (canceled)

9 (previously presented): A data checking system as defined in claim 3 wherein child accomplishment data is associated with set periods of time and further comprising:
means for selecting a period of time of one or more days,

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said inspection conducting means determining the presence of child accomplishment data associated with the selected period of time.

10 (previously presented): A method as defined in claim 4 wherein one of the selected items of the possible data includes a date and further comprising the step of:

setting a selected period of one or more days,

said searching including determining the presence of the one selected item having a date within the selected period.

11 (previously presented): A data checking system as defined in claim 5 wherein child accomplishment data is associated with set periods of time and further comprising the step of:

selecting a period of time of one or more days,

said searching including determining the presence of child accomplishment data associated with the selected period of time.

12 (canceled)

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13 (previously presented): A data checking system as defined in claim 1 wherein the item list includes child information having ethnicity and the inspection conducting means determines the presence or absence of entries of child ethnicity.

14 (previously presented): A method as defined in claim 4 wherein the item list includes child information having ethnicity and the checking determines the presence or absence of entries of child ethnicity.

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REMARKS

The above amendments to claims 1 and 3 correct typographical errors. It is noted that the Remarks in the Amendment and Response filed November 23 correctly set forth the wording "computerized educational management system".

Respectfully submitted,

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BRIEF ON APPEAL
(Filed in triplicate)

Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

(I) Real Party in Interest

All rights and interest in this application are assigned to Assessment Technology Inc.
a corporation of Arizona

(ii) Related Appeals and Interferences

There are no related appeals or interferences.

(iii) Status of claims

All pending claims (claims 1, 3-5, 7, 9-11,13 and 14) have been finally rejected and
are being appealed.

Claims 1 and 4 have been rejected under 35 U.S.C. 102(e) as being anticipated by

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U.S. Patent 6,149,441 (Pellegrino et al.).

Claims 3, 5, 9-11 and 13-14 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Pellegrino et al. in view of U.S. Patent 6,685,478 (Ho et al.).

Claims 7 and 9-11 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Pellegrino et al. in view of Ho et al. and further in view of U.S. Patent 5,864,869 (Doak et al.).

Grouping of claims

Claims 1 and 4 -- Educational management system database checking including checking for lesson plan information;

claims 7 and 10 -- with date within selected period;

claims 13 and 14 -- for child ethnicity information.

Claims 3 and 5 -- Educational management system database checking including child accomplishment information;

claims 9 and 11 -- with date within selected period.

(iv) Status of Amendments

An amendment is being filed concurrent with this brief to correct minor typographical errors in claims 1 and 3.

(v) Summary of Invention

The invention is summarized in an apparatus and method of checking a database (page 7, line 20 through page 9, line 12; Figs. 3-8) to determine if necessary files and data have

been entered into the database in a computerized education management system including an item list (page 11, lines 3-7; Fig. 10, items in box 398) defining possible data in the computerized management system; means for displaying the list (page 10, lines 2-10; Fig. 10, box 398) and for enabling the user to select one or more items in the item list (page 11, lines 8-9; Fig. 9, steps 420 and 422) as necessary for the management system; means (page 11, lines 11-13; Fig. 9, step 428; Fig. 10, button 410) enabling a user to request a check of the selected items; and means responsive to the request to check the selected items for conducting an inspection (page 11, lines 11-13; Fig. 9, step 430) of the management system data base to determine the presence of the selected items and for reporting the results (page 11, lines 13-14; Fig. 10, box 400) of the conducted inspection.

Claims 1, 3-5, 7, 9-11, 13 and 14 are limited to checking items in a computerized educational management system such as the presence or absence of lesson plans (page 22, lines 17-20; Figs. 37 and 38, steps 1096 and 1098, box 1084), presence or absence of child accomplishment (page 22, lines 2-5; Figs. 35 and 36, steps 1026 and 1034 and box 1054); presence or absence of child information (“child information” - Fig. 10, box 398) including ethnicity (Fig. 6, data item 318); and setting a period of time during which the date or dates of the selected items correspond (page 10, line 22 through page 11, line 3; Fig. 10, box 396, button 414).

(vi) Grounds of rejection to be reviewed on appeal

1. Does U.S. Patent 6,149,441 (Pellegrino et al.) disclose the combination of

elements or steps in claims 1 and 4?

2. Are combinations of elements or steps in claims 3, 5, 7, 9-11, 13 and 14 obvious to one skilled in the prior art from the combined teachings of Pellegrino et al., U.S. Patent 6,685,478 (Ho et al.), and U.S. Patent 5,864,869 (Doak et al.).

(vii) Argument

Rejection of Claims 1 and 4 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent 6,149,441 (Pellegrino et al.)

Contrary to the statement in the office action, Pellegrino et al. do not disclose any apparatus or method for determining if necessary files and data exist in a computerized database. Pellegrino et al. disclose a computer-based educational system with a lesson builder which allows teachers to create customized lessons incorporating text, audio images, video and application programs. As part of the system, Pellegrino et al. include a procedure to find and retrieve lesson plans from a data base.

The final office cites various passages in Pellegrino column 15, line 60 through column 16, line 31 as disclosing the combination of elements and steps of claims 1 and 4.

Pellegrino, column 15, lines 55 - column 16, line 43: "The lesson builder module 74 allows a teacher to search the lesson catalog database for existing lessons; to create a new lesson; to modify or delete an existing lesson; to display and print the lesson plan associated with a particular lesson; and to preview a lesson, that is, view the lesson as it will be presented to a student.

Upon clicking the "lesson builder" button 228 of the Teacher Home Page 224 (FIG. 9), the teacher is presented with the Lesson Builder Form Page 340 shown in FIG. 20. The Lesson Builder Form page 340 allows searching of the lesson catalog database 64 for existing lessons based on selected search criteria. The subject field 342 includes a pull down menu the user can use to select any of a plurality of

different subject areas (e.g., Astronomy) provided on the menu. The grade level field 344 includes a pull-down menu the user can use to select the grade level. The Lesson Builder Form Page 340 also includes a lesson title field 346; a keyword field 350; and teacher field 348 for searching for lessons based on the title, selected keyword, or the name of the teacher, respectively.

The results of a typical lesson search are shown in FIG. 21. A list 352 of lessons that meet the search terms is provided. The list 352 includes each lesson's subject, title, teacher, and grade level information. Associated with each item on the list are "Lesson Plan", "Student Page" and "Select" buttons, indicated collectively by reference numeral 354. A list of all lessons in the lesson catalog database can be obtained by clearing all search fields, setting the subject and grade level fields to "all", and clicking on the "search" button 351 of FIG. 20.

Clicking on a "Lesson Plan" button, such as "Lesson Plan" button 358 associated with the lesson entitled "Famous Presidents" displays the respective lesson plan along with some other general information. FIG. 22 shows the results of pressing the "Lesson Plan" button associated with the an exemplary lesson entitled "United States Congress". The lesson plan summary is presented in a separate browser window 362. The lesson plan can be viewed by scrolling the scroll bar 366. The lesson plan entries are described in more detail below.

Clicking one of the "Student Page" buttons 359 shown in FIG. 21 provides for the teacher a preview of the lesson page presented to a student when he or she accesses that lesson via the browser program on the client computer 21. To copy, modify or delete an existing lesson, the teacher can click the "Select" button 360 shown in FIG. 21. The title, subject, lesson description, notes, responsible teacher, and keywords associated with the lesson are presented, as shown by page 370A in FIG. 23A for an "unpublished" lesson (or a "published" lesson for which the creator desires to allow modification by others), or by page 370B in FIG. 23B for a "published" lesson. In the unpublished lesson page 370A, the teacher may click on the "modify" button 372 to access the lesson elements for modification, may click on the "copy" button 374 to generate a copy of the lesson, or may click on the "delete" button 376 to delete the lesson."

First of all, Pellegrino et al. nowhere mention any need for a principal or management to determine if teachers have entered necessary items or data in an educational database; rather the cited portions of Pellegrino et al. have to do with teachers finding and retrieving lesson plans from a database. A principal or administrator wishing to find out if teachers within his

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school have entered lesson plans would not be able to use the cited procedure in the system of Pellegrino et al. to easily find out which teachers have entered lesson plans and which have not; the principal could print out the list of lesson plans and then undergo a tedious task of studying the printout of the list of lesson plans to determine if criteria is met.

A pull down menu of subject matters (subject field 342) in Pellegrino et al. does not suggest an item list of possible necessary data in a database. Although a teacher can select a subject matter from the pull down menu of Pellegrino et al. and request a search for lesson plans on the subject matter, there is no suggestion that such selection and search request by a principal can lead to the determination whether or not all necessary lesson plans have been entered into the database. Further, Pellegrino et al. report or list the lesson plans found by the search but this does not inform the principal of any missing lesson plans or other data.

Accordingly claims 1 and 4 are clearly novel over the teaching of Pellegrino et al. and the rejection of claims 1 and 4 is clear error which must be reversed.

Rejection of Claims 3, 5, 7, 9-11 and 13-14 under 35 U.S.C. 103(a) as being unpatentable over Pellegrino et al. in view of U.S. Patent 6,685,478 (Ho et al.)

The office action repeats the grounds given above in connection with claims 1 and 4 stating that Pellegrino et al. do not teach that the item list includes child development areas and that the inspection conducting means determines the presence or absence of child accomplishment in the selected development areas. Then the office action states that Ho et al. suggest that student learning activities are tracked and evaluated and thus it would be obvious

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to modify Pellegrino et al. to track student activity as taught by Ho et al.

Ho et al. discloses an inexpensive computer-aided learning method and apparatus for employees and particularly potential employees (learning user) wherein learning end results are available for potential employers (institute user). Learning end results can be defined as the end results of learning a subject matter, such as the grade one gets after finishing a course, or whether one has received a certificate or graduated from a course. Ho et al., like Pellegrino et al., do not teach or suggest any apparatus or method for determining if necessary files and data exist in a computerized database.

While educational computer systems have long stored student grades in a data base and these stored grades are available for retrieval by teachers and administrators, there is no simple prior art apparatus or method for checking a data base for determining if necessary records have been entered into the data base; one has to look for records of each student to determine if such records are absent.

The teaching of Pellegrino et al. modified by the teaching of Ho et al. or the prior art storage and retrieval of grades does not lead to the combinations of the present invention wherein a principal by a simple procedure can determine missing grade records (accomplishment information) of all the students in the school.

Regarding claims 13 and 14, the office action states “child development is the same ethnicity in concept.” This is clear error. The absence of a prior art teaching is not grounds for rejection.

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In view of the above, the rejection of claims 3, 5, 7, 9-11 and 13-14 under 35 U.S.C. 103(a) as being unpatentable over Pellegrino et al. in view of Ho et al. is clear error and must be reversed.

Rejection of Claims 7 and 9-11 under 35 U.S.C. 103(a) as being unpatentable over Pellegrino et al. in view of Hoe et al. and further in view of U.S. Patent 5,864,869 (Doak et al.)

In this rejection, the office action states that Pellegrino et al. do not teach setting a selected period of one or more days and determining the presence or absence of a selected time having a date within the selected period and cites Doak et al., column 5, lines 26-30:

"With the collection of data and dates provided by the user and generated by the software, a variety of complimentary reports have been designed within the application and are available to the user for further classroom instruction management, administrative reporting needs and overall time saving for the user."

Doak et al. discloses a method and manufacture of lesson plans and classroom organizers utilizing computers and software. It employs a lesson plan database and enables a teacher to construct a series (year or less) of lesson plans based upon the database and to modify the lesson plans in accordance with daily and weekly completion of lesson plans. There is no inspection system for management selecting items from a list of possible data in a database and determining if selected items such as lesson plans for a certain period, or other data, exist in the database. While Doak et al. may enable a teacher to enter and publish progress reports or evaluations, this does not modify the teachings of Pellegrino et al. and Ho et al. to provide an item list of possible data in a data base with selection by a user of one or more items in the list and the checking of the database in response to a user request for presence or absence of

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the selected item or items. According this rejection of claims 7 and 9-11 is clear error and must be reversed.

CONCLUSION

Basically the office action sets forth a gross misinterpretation of the prior art. The prior art is falsely said to teach concepts of the present claims. Any fair reading to the cited prior art teachings does not reach the conclusion that the prior art teaches the elements and steps of the present claims or that the present claimed apparatus and methods are obvious from the prior art. Accordingly the rejections of claims 1, 3-5, 7, 9-11,13 and 14 must be reversed.

Respectfully submitted,

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(viii)

APPENDIX - APPEALED CLAIMS

1 1. A data checking system for determining if necessary files and data have been
2 entered into a computerized educational management system having a data base containing a
3 plurality of files and data, the system comprising:
4 an item list defining possible data including lesson plan information in the
5 computerized management system;
6 means for displaying the list and for enabling the user to select one or more items in the
7 item list as necessary for the management system;
8 means enabling a user to request a search of the data base for the selected items; and
9 means responsive to a request to search the data base for the selected items for
10 conducting an inspection of the management system data base to determine the presence or
11 absence of the selected items including lesson plans and for reporting the results of the
12 conducted inspection.

1 3. A data checking system for determining if necessary files and data have been
2 entered into a computerized educational management system having a data base containing a
3 plurality of files and data, the system comprising:
4 an item list defining possible data in the computerized management system;
5 means for displaying the list and for enabling the user to select one or more items in the
6 item list as necessary for the management system;

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7 means enabling a user to request a search of the data base for the selected items; and
8 means responsive to a request to search the data base for the selected items for
9 conducting an inspection of the management system data base to determine the presence or
10 absence of the selected items and for reporting the results of the conducted inspection;
11 wherein the item list includes child developmental areas and the inspection conducting
12 means determines the presence or absence of child accomplishment in the selected
13 developmental areas.

1 4. A method of determining if necessary files and data have been entered into a
2 computerized educational management system having a data base containing a plurality of files
3 and data, the method comprising:
4 displaying an item list defining possible data including lesson plan information in the
5 computerized management system;
6 selecting one or more items in the displayed item list as necessary for the management
7 system;
8 requesting a search of the data base for the selected items;
9 searching the data base in response to a search request to determine the presence or
10 absence of the selected items including lesson plans; and
11 reporting the results of the searching of the data base.

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1 5. A method as defined in claim 4 wherein the item list includes child developmental
2 areas and the checking determines the presence or absence of child accomplishment in the
3 selected developmental areas.

1 7. A data checking system as defined in claim 1 wherein one of the selected items of
2 the possible data includes a date and further comprising:
3 means for setting a selected period of one or more days,
4 said inspection conducting means determining the presence of the one selected item
5 having a date within the selected period.

1 9. A data checking system as defined in claim 3 wherein child accomplishment data
2 is associated with set periods of time and further comprising:
3 means for selecting a period of time of one or more days,
4 said inspection conducting means determining the presence of child accomplishment
5 data associated with the selected period of time.

1 10. A method as defined in claim 4 wherein one of the selected items of the possible
2 data includes a date and further comprising the step of:
3 setting a selected period of one or more days,
4 said searching including determining the presence of the one selected item having a

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5 date within the selected period.

1 11. A data checking system as defined in claim 5 wherein child accomplishment data
2 is associated with set periods of time and further comprising the step of:
3 selecting a period of time of one or more days,
4 said searching including determining the presence of child accomplishment data
5 associated with the selected period of time.

1 13. A data checking system as defined in claim 1 wherein the item list includes child
2 information having ethnicity and the inspection conducting means determines the presence or
3 absence of entries of child ethnicity.

1 14. A method as defined in claim 4 wherein the item list includes child information
2 having ethnicity and the checking determines the presence or absence of entries of child
3 ethnicity.